

ADMINISTRATIVE PANEL DECISION

UNIPOL GRUPPO S.p.A. v. Transure Enterprise Ltd / Host Master
Case No. D2023-3066

1. The Parties

The Complainant is UNIPOL GRUPPO S.p.A., Italy, represented by Bugnion S.p.A., Italy.

The Respondent is Transure Enterprise Ltd / Host Master, United States of America (“United States”)

2. The Domain Name and Registrar

The disputed domain name <unipolhurt.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 21, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Respondent Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on July 26, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 14, 2023.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on September 25, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an investment holding and services company and considered the second insurance group on the Italian market, the first in non-life Business, and among the top ten in Europe. Since 1990, its ordinary shares have been listed on the Italian Stock Exchange and are included in the FTSE MIB index.

The Complainant counts 12,370 employees and serves more than 16 million customers and policyholders. It operates through the largest agency network in Italy, with more than 2,000 insurance agencies distributed across Italy, through which it offers a full range of insurance products and services.

The Complainant owns various registrations for the UNIPOL trademark, including the following:

- Italian trademark registration No. 1470143 for UNIPOL, registered on December 7, 2011 for goods and services in international classes 9, 16, 35 and 36;
- International Trademark Registration No. 1102188 for UNIPOL, registered on November 16, 2011 for goods and services in international classes 9, 16, 35 and 36;
- European Union Trademark Registration No. 013634431 for UNIPOL GRUPPO (figurative), registered on May 8, 2015 goods and services in international classes 9, 16, 35 and 36.

The Complainant also owns a series of domain names including the UNIPOL trademark.

The disputed domain name was created on March 24, 2023, and leads to a parking page containing pay-per-click (PPC) links that refer to the third parties' insurance services.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the UNIPOL trademark are confusingly similar.

According to the Complainant's contentions, the identical reproduction of the Complainant's UNIPOL trademark is sufficient to conclude to the identity with the disputed domain name.

The Complainant contends that the addition of the term "hurt" in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the UNIPOL trademark, as the UNIPOL trademark remains recognizable in the disputed domain name.

The Complainant submits that the applicable generic Top-Level Domain ("gTLD") in the disputed domain name should be viewed as a standard registration requirement and as such should be disregarded under the first element confusing similarity test.

No Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant asserts that there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent.

According to the Complainant's contentions, there is no believable or realistic reason for registration or use of the disputed domain name other than to take advantage of the Complainant's rights in the UNIPOL trademark. The disputed domain name leads to a parking page containing pay-per-click links. Thus, the Complainant asserts that the disputed domain name is not being used in relation to a *bona fide* offering of goods or services and the Respondent is not making legitimate or fair use of the disputed domain name.

The Complainant further submits that the Respondent is making illegitimate commercial use of the disputed domain name for commercial gain and to tarnish the Complainant's trademarks.

Registered and Used in Bad Faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Respondent must have been aware of the Complainant's UNIPOL trademark when it registered the disputed domain name. The Complainant contends that the disputed domain name is used with the view of attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Considering that the Respondent did not reply to the Complainant's contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: (i) the Complainant must demonstrate that it has rights in a trademark and, if so, (ii) the disputed domain name must be shown to be identical or confusingly similar to the trademark.

According to section 1.1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the term “trademark or service mark” as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the UNIPOL trademark enjoys protection under national, regional and international trademark registrations. Thus, the Panel finds that the Complainant’s rights in the UNIPOL trademark have been established pursuant to the first element of the Policy.

The disputed domain name consists of the Complainant’s UNIPOL trademark followed by the additional term “hurt” in the disputed domain name, and followed by the generic Top-Level Domain (“gTLD”) “.com”.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within a domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term may however bear on assessment of the second and third elements.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant’s UNIPOL trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the UNIPOL trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the case filing, the Panel establishes that there is no evidence that the Respondent is a licensee of, or otherwise affiliated with, the Complainant, and apparently, it has not been authorized by the Complainant to use its UNIPOL trademark.

Based on the present case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

There is no evidence that the Respondent has used or made demonstrable preparations to use the disputed domain name in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods or services.

The Panel notes the statements in the [WIPO Overview 3.0](#) on the question of whether “parked” pages comprising PPC links support the Respondent’s rights or legitimate interests. Section 2.9 of the [WIPO Overview 3.0](#) stated that:

“[a]pplying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users.

Panels have recognized that the use of a domain name to host a page comprising PPC links would be permissible – and therefore consistent with respondent rights or legitimate interests under the UDRP – where the domain name consists of an actual dictionary word(s) or phrase and is used to host PPC links genuinely related to the dictionary meaning of the word(s) or phrase comprising the domain name, and not to trade off the complainant’s (or its competitor’s) trademark.”

In the present case, the Respondent’s use of the confusingly similar disputed domain name to host a parking page with pay-per-click links referring to the insurance services offered by third parties does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the disputed domain name as the insurance services do not correspond to any obvious meaning of the phrase comprising the disputed domain name. The Respondent’s use of the disputed domain name is not *bona fide*, but rather evidence of bad faith, seeing as the Respondent presumably receives click-through-revenue by virtue of the misled Internet users drawn to the pay-per-click site because of the confusingly similar disputed domain name.

Hence the Respondent’s use of the confusingly similar disputed domain name to host a parking page with PPC links does not, absent any further explanation, provide the Respondent with rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has chosen not to respond to the Complaint and thus has failed to provide any evidence of rights or legitimate interests in the disputed domain name. The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraph 4(a)(ii) of the Policy.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The disputed domain name was registered well after the UNIPOL trademark was first used and registered.

The disputed domain name, which wholly incorporates the UNIPOL trademark, which gained the high degree of recognition onto the relevant sector of the market, resolves to a page offering pay-per-click links for which the Respondent most likely would receive some commercial gain. In these circumstances where the Respondent has offered no plausible explanation for the registration of the disputed domain name, the Panel finds, on the balance of probabilities, that the Respondent was most likely aware of the Complainant at the time of registration and is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the UNIPOL trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Respectively, the Panel finds that the use of a domain name that is identical or confusingly similar to a trademark to obtain click-through-revenue can amount to bad faith use (see, among others, *Ifscience Limited v. Domains By Proxy LLC / Dr Chauncey Siemens*, WIPO Case No. [D2016-0909](#); and *AMADEUS IT GROUP, S.A. v. Contact Privacy Inc. Customer 0151133672, Contact Privacy Inc. Customer 0151133672 / Milen Radumilo*, WIPO Case No. [D2018-2192](#)).

Based on the available record, the Panel finds the third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <unipolhurt.com> be transferred to the Complainant.

/Kateryna Oliinyk/

Kateryna Oliinyk

Sole Panelist

Date: October 23, 2023